

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	

**INITIAL COMMENTS OF THE  
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> hereby submits its Initial Comments in response to the Federal Communications Commission's (Commission or FCC) *Further Notice of Proposed Rulemaking (FNPRM)* in the above-captioned proceeding and its accompanying Initial Regulatory Flexibility Analysis.<sup>2</sup> NTCA's comments in this proceeding are limited to the Commission's request for comment on whether it should mandate the Lifeline/Link-Up outreach efforts of ETCs.

NTCA submits that the Commission should not further regulate communication between carriers and subscribers. The regulation is unnecessary. Carriers have a strong financial incentive to advertise the Lifeline/Linkup services. Advertising helps ensure that customers stay connected, which in turn ensures that the companies retain the revenue sources associated with

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<sup>1</sup> NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> *In the Matter of Lifeline and Link-Up, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 03-109, FCC 04-87 (rel. April 29, 2004).

those customers. Also, the carriers, not the Commission, are in the best position to determine how to get the Lifeline/Linkup message across. Carriers, especially those serving rural areas, know their communities and how to reach them. The Commission recently established guidelines for carriers to comply with the notification requirements of Lifeline/Linkup. Absent evidence of widespread violation of the notification requirement, the Commission should permit carriers to review the new guidelines and adopt their own compliance measures. Rather than enact new regulation, the FCC should pursue enforcement action against any violators. If the Commission does determine that stricter regulation is necessary, it should limit the scope of carriers to whom the rules will apply. Advertising is expensive and rural carriers with limited resources should not be subject to the same Lifeline/Linkup notice and publication requirements as large carriers serving urban areas.

The Commission questions whether adoption of rules governing the advertisement of the Lifeline/Linkup program would strengthen the operation of the programs.<sup>3</sup> It seeks comment on whether it should require ETCs to print and distribute posters or other print media advertising the programs to public assistance agencies in their service areas.<sup>4</sup> The Commission recently enacted notification guidelines. Rather than go further with the regulation and create information mandates, the Commission should give the current regulation and guidelines time to work and let carriers respond to the needs of their own communities.

Sweeping information mandates are counterintuitive and will not accomplish the Commission's goals. What is appropriate in one community may not be appropriate in another. In some communities, a poster hanging at the public assistance agency may make sense, but in

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<sup>3</sup> *FNPRM*, ¶58.

<sup>4</sup> *Id.*

an area without a local public assistance presence or in area where many of those who qualify do not seek public assistance, it may make more sense to hang a poster at a community center, or perhaps the local grocery store. In a rural community served by a telephone cooperative, a verbal announcement at the telco's annual meeting, or a billboard tacked to the side of the building may reach more people than a poster hanging at a specified location. Rural carriers, unlike their urban counterparts, are part of the communities they serve and know how to respond to their needs.

In its quest to provide information to the population with the greatest need for Lifeline/Linkup, the Commission questions whether it should require that information be provided in a language other than English, and what is the appropriate threshold for such a requirement. Setting language benchmarks and regulating materials is overreaching. Rural carriers usually serve vast territories. The predominate language in one area of the service territory may not be the predominate language of another portion of the service territory. Both areas may have equal need for Lifeline/Linkup, but how the telco informs each sub-community about the programs will be different. The telco, not the FCC, is in the best position to evaluate the needs of its potential subscribers and determine the appropriate form of providing information. Mandating the form of the information as proposed is counterintuitive; the Commission cannot anticipate the dynamics of every community. Rural communities are delightfully distinct, each with its own personality and characteristics. The carriers serving the rural territories should be permitted to disseminate information as is appropriate for their particular circumstances.

The Commission proposes rules governing advertising on the heels of adopting guidelines for compliance with the requirement of § 54.405(b). The FCC's proposed advertisement rules are, at the very least, premature. Any carrier who was confused about its obligations under § 54.405 now has a clearer understanding of what it must do to comply with the notice and publicizing requirements. Not enough time has lapsed to determine whether or not the guidelines will stimulate additional action by the carriers. While the Commission offers successful examples of vigorous educational Lifeline/Linkup efforts, there is no evidence of widespread violation of § 54.405. Absent such evidence, rather than enact additional regulation, the Commission should take enforcement action against individual wrongdoers.

Any further regulation that is adopted pursuant to this further notice should not apply to rural telephone companies. Rural telephone companies are, by their nature, small businesses. Small businesses are entitled to special protection under the Regulatory Flexibility Act (RFA).<sup>5</sup> The Commission is required to prepare an Initial Regulatory Flexibility Analysis (IRFA) describing any significant alternatives that it has considered in reaching its proposed approach impacting small businesses. While this Further Notice does contain an IRFA, the IRFA only discusses the potential changes to the federal default income-based eligibility criterion for the low-income support mechanism. There is no mention of a proposal to mandate the manner in which carriers advertise and publicize the availability of the Lifeline/Linkup program.

In the absence of an IRFA, NTCA proposes that if the Commission does mandate the manner by which carriers must advertise Lifeline/Linkup, it not do so for small and rural telephone companies. Advertising is expensive. There are substantial layout, production and

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<sup>5</sup> 5 U.S.C. § 604.

printing costs involved. There is no evidence that mandates are necessary and there is reason to believe that less expensive means will accomplish the Commission's goal. Therefore, rural carriers should have the opportunity to respond to their communities' need in compliance with the current Commission rules without the proposed additional regulation.

## **CONCLUSION**

The Commission should not further regulate communication between carriers and subscribers by adopting advertising mandates. Carriers, especially those serving rural areas, know their communities and how to get a message across and have a financial incentive to advertise effectively. The Commission recently established guidelines for carriers to comply with the notification requirements of Lifeline/Linkup. Absent evidence of widespread violation of the notification requirement, the Commission should permit carriers to review the new guidelines and adopt their own compliance measures. Rather than enact new regulation, the FCC should pursue enforcement action against any violators. If the Commission does determine that stricter regulation is necessary, it should limit the scope of carriers to whom the rules will apply

in accordance with the Regulatory Flexibility Act. Advertising is expensive and rural carriers with limited resources should not be subject to the same Lifeline/Linkup notice and publication requirements as large carriers serving urban areas.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS  
COOPERATIVE ASSOCIATION

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August 23, 2004

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in WC Docket No. 03-109, FCC 04-87 was served on this 23rd day of August 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

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